

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 7, “Appeals and Hearings,” Iowa Administrative Code.

The Department has new programs that have been implemented or will be implemented in the future. When a new program is established, administrative rules found in 441—Chapter 7 regarding appeals and hearings must be updated to reflect changes pertaining to the new programs. The Department is required to ensure that constituents have access to due process if they are dissatisfied with a decision made by the Department. These amendments update the definition of “aggrieved person” to ensure those individuals affected by adverse action have the right to an appeal.

Specifically, the amendments update the definition of “aggrieved person” as follows:

1. A reference to the Iowa Health and Wellness Plan is added in numbered paragraph “3.” Individuals who apply for or are denied benefits under this plan may be eligible to receive an appeal hearing if they meet the definition of an aggrieved person. The amendment makes that clear.

2. Numbered paragraph “7,” pertaining to providers, is revised to include social service providers:

- Whose applications or reapplications for licensure were issued as provisional licenses when the providers believed they should have received full licenses, or
- Whose licenses were issued for a limited time frame.

3. Numbered paragraph “9,” pertaining to mental health and developmental disabilities, is revised due to the April 1, 2014, implementation of the Autism Support Program. The adverse actions that may be taken by the Department for this program have been added, which will allow individuals affected by an adverse action the right to file an appeal regarding these actions.

Finally, the time frame that the Department has to request an appeal of the proposed decision is not clear in the current rules and has caused some confusion. Subrule 7.16(6) is updated to clarify the time frame that the Department has to request an appeal of the proposed decision.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1515C** on June 25, 2014. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on August 13, 2014.

These amendments do not include waiver provisions because the amendments confer benefits on those affected and are generally required by federal law that does not allow for waivers. Individuals may request a waiver under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 217.6.

These amendments will become effective November 1, 2014.

The following amendments are adopted.

ITEM 1. Amend rule **441—7.1(17A)**, definition of “Aggrieved person,” as follows:

“*Aggrieved person*” means a person against whom the department has taken an adverse action. This includes a person who meets any of the following conditions:

1. and 2. No change.

3. For medical assistance, healthy and well kids in Iowa, IowaCare, the Iowa Health and Wellness Plan, family planning services, and waiver services, a person (see numbered paragraph “7” for providers):

- Whose request to be given an application was denied.
- Whose application has been denied or has not been acted on in a timely manner.
- Whose eligibility has been terminated, suspended or reduced.
- Who has been notified that there will be a reduction in the level of benefits or services the person is eligible to receive.

- Who has received a determination of the amount of medical expenses that must be incurred to establish income eligibility for the medically needy program or a determination of income for the purposes of imposing any premiums, enrollment fees or cost sharing.
  - Who has been notified that the level of services provided by a nursing facility is not needed based on a preadmission screening and resident review (PASRR) evaluation.
  - Who has been notified that level of care requirements have not been met.
  - Who has been aggrieved by a failure to take into account the appellant's choice in assignment to a coverage group.
  - Who contests the effective date of assistance or services.
  - Who contests the amount or effective date of health insurance premium payments, healthy and well kids in Iowa premium payments, Medicaid for employed people with disabilities premium payments, IowaCare premium payments, or the spenddown amount under the medically needy program.
  - Who contests the amount of client participation.
  - Whose claim for payment or prior authorization has been denied.
  - Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
  - Who has received notice from the medical assistance hotline that services not received or services for which an individual is being billed are not payable by medical assistance.
  - Who has been notified that an overpayment of benefits has been established and repayment is requested.
  - Who has been denied requested nonemergency medical transportation services by the broker designated by the department pursuant to rule 441—78.13(249A) and has exhausted the grievance procedures established by the broker pursuant to 441—subrule 78.13(7).
4. to 6. No change.
7. For providers, a person or entity:
- Whose license, certification, registration, approval, or accreditation has been denied or revoked or has not been acted on in a timely manner.
  - Whose claim for payment or request for prior authorization of payment has been denied in whole or in part and who states that the denial was not made according to department policy. Providers of Medicaid services must accept reimbursement based on the department's methodology.
  - Whose contract as a Medicaid patient manager has been terminated.
  - Who has been subject to the withholding of a payment to recover a prior overpayment or who has received an order to repay an overpayment pursuant to 441—subrule 79.4(7).
  - Who has been notified that the managed care reconsideration process has been exhausted and who remains dissatisfied with the outcome.
  - Whose application for child care quality rating has not been acted upon in a timely fashion, who disagrees with the department's quality rating decision, or whose certificate of quality rating has been revoked.
  - Who has been subject to an adverse action related to the Iowa electronic health record incentive program pursuant to rule 441—79.16(249A).
  - Who, as a managed care organization (MCO) provider or Iowa plan contractor when acting on behalf of a member, has a dispute regarding payment of claims.
  - Who has been notified that an application or reapplication for licensure was issued as a provisional license.
  - Who has been notified that a license has been issued for a limited time.
8. No change.
9. For mental health and ~~developmental disabilities~~ disability services, a person:
- Whose application for state payment under 441—Chapter 153, Division IV, has been denied or has not been acted upon in a timely manner.
  - Who has been notified that there will be a reduction or cancellation of services under the state payment program.
  - Whose request to be given an application was denied.

- Whose eligibility has been terminated, suspended or reduced.
- Who has been notified that there will be a reduction in the level of benefits or services the person is eligible to receive.
- Who contests the effective date of assistance or services.
- Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
- Who contests the amount or effective date of cost-sharing requirements for the autism support program.
- Whose service authorization requests for applied behavioral analysis services have been denied or reduced.

10. to 13. No change.

ITEM 2. Amend subrule 7.16(6) as follows:

**7.16(6)** *Appeal of the proposed decision by the department.* The appeals advisory committee acts as an initial screening device for the director and may recommend that the director review a proposed decision. That recommendation is not binding upon the director, and the director may decide to review a proposed decision without that committee's recommendation.

A request by the department for director's review of the proposed decision must be made in writing. The written request must be submitted to the appeals section in person or submitted through an electronic delivery method, such as electronic mail or facsimile, within ten calendar days of the date on which the proposed decision was sent. The day after the proposed decision is sent is the first day of the time period within which a request for director's review must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

When the director grants a review of a proposed decision on the department's request, the appeals section shall notify all other parties to the appeal of the review and send a copy of the request to all other parties. All other parties shall be provided ten calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

Written arguments or objections must be mailed or submitted in person to the appeals section or submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile.

The day after the notification is sent is the first day of the time period within which a response to the department's request for review must be filed. When the time limit for responding falls on a holiday or a weekend, the time will be extended to the next workday.

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